

THE HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TODD BRINKMEYER

Petitioner,

v.

WASHINGTON STATE LIQUOR AND  
CANNABIS BOARD,

Respondent.

Case No. 3:20-cv-05661-BHS

**DECLARATION OF ANDY MURPHY IN  
SUPPORT OF PETITIONER'S MOTION  
FOR SUMMARY JUDGMENT**

I, Andy Murphy, hereby declare and state as follows:

1. I am one of the attorneys representing the petitioner in this action. I am over the age of eighteen, have personal knowledge of the matters contained in this Declaration, and am competent to testify thereto.

1. Attached hereto as **Exhibit A** is a true and correct copy of the Answer the Respondent filed in Thurston County Superior Court *Brinkmeyer v. Washington State Liquor Control Board*, Case No. 20-2-01568-34 (the "State Court Action") on June 29, 2020.

2. Attached hereto as **Exhibit B** is a true and correct copy of a table on Topshelfdata.com that I accessed on January 28, 2021 at: <https://www.topshelfdata.com/industry/wa>. The table summarizes the voluminous public data

published by Respondent regarding the sales and taxes from Washington's licensed marijuana industry.

3. Attached hereto as **Exhibit C** is a true and correct copy of the Motion for Preliminary Injunction that Petitioner filed in the State Court Action on December 30, 2020.

4. Attached hereto as **Exhibit D** is a true and correct copy of the court's order denying the Motion for Preliminary Injunction in the State Court Action on January 29, 2021.

5. I and counsel for the Respondent agreed to a delayed summary judgment briefing schedule in the State Court Action to accommodate the parental leave of Respondent's counsel.

6. Attached hereto as **Exhibit E** is a true and correct copy of the Motion for Summary Judgment that Petitioner filed in the State Court Action on April 7, 2021.

7. Attached hereto as **Exhibit F** is a true and correct copy of the LCB's Response to Summary Judgment that Respondent filed in the State Court Action on June 21, 2021.

8. Attached hereto as **Exhibit G** is a true and correct copy of the order dismissing Brinkmeyer's causes of action based on Washington law in the State Court Action on July 23, 2021.

9. Attached hereto as **Exhibit H** is a true and correct copy of the Declaration of Rebecca Smith filed by Respondent in the State Court Action on June 21, 2021.

10. Attached hereto as **Exhibit I** is a true and correct copy of an article written by Allie Howell titled "Residency Requirements for Marijuana Licensure in January 2019" dated January 2019 and available at: <https://reason.org/wp-content/uploads/residency-requirements-marijuana-licensure.pdf>.

11. Attached hereto as **Exhibit J** is a true and correct copy of a February 2, 2018 article authored by the Associated Press titled, "US prosecutor: Oregon has big pot overproduction problem," that is available at <https://www.nydailynews.com/newswires/news/business/prosecutor-oregon-big-pot-overproduction-problem-article-1.3794431>.

EXECUTED in Burien, WA on this 1st day of February, 2022.

Andy Murphy

**DECLARATION OF SERVICE**

I, Jennifer L. Schnarr, hereby declare under penalty of perjury under the laws of the United States, that on the 1st day of February, 2022, a copy of the foregoing document was served upon the attorneys of record in the above cause as follows:

PENNY ALLEN, WSBA No. 18821  
ELLEN RANGE, WSBA No. 51334  
Assistant Attorneys General  
1125 Washington St SE  
Olympia, WA 98501  
Phone: (360) 753-2702  
Email: Pennyl.Allen@atg.wa.gov  
Ellen.Range@atg.wa.gov

☐ via Hand Delivery  
☐ via U.S. Mail  
☐ via Facsimile  
☒ via E-Service  
☒ via Email

*Attorneys for Respondent*

SIGNED at Burien, Washington, this 1st day of February, 2022

s/ Jennifer L. Schnarr

Jennifer L. Schnarr, Legal Assistant

4886-6208-3339.2